

UN Rapporteur on Torture Nils Melzer: “With censorship inevitably comes tyranny”

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On November 28, the World Socialist Web Site spoke with UN Special Rapporteur on Torture Nils Melzer in Berlin. Melzer is playing a central role in the defence of Julian Assange. The day before the interview, he took part in the unveiling in front of Berlin's Brandenburg Gate of the art installation "Anything to Say," with sculptures of Assange, Chelsea Manning and Edward Snowden. He also participated in a hearing on Assange in the German parliament (Bundestag).

In this interview with the WSWWS, the Swiss lawyer, who teaches international humanitarian law at the University of Glasgow, speaks of his work on the Assange case and the perilous condition of the WikiLeaks founder, who is languishing in the Belmarsh maximum security prison in London.

He denounces the role of governments and the mainstream media in the persecution of Assange and warns of the dangerous consequences of the far-reaching erosion of democratic rights.

WSWS: A few days ago, over 60 doctors published an Open Letter warning that Assange could die in prison. Your reports from November 1 and this past spring were an important point of reference for the doctors. Can you comment on the significance of this letter and of your work in recent months?

Nils Melzer: When I first met Assange in May—I didn't know him or his case that well at the time—I deliberately took two doctors with me to have an objective medical basis for my conclusions. The result was already very clear at that time. He showed all the symptoms typical of victims of long-term psychological torture.

These symptoms are the result of a highly arbitrary and destabilizing environment systematically made unpredictable with the aim of maximizing the prisoner's vulnerability. This is a form of emotional and mental manipulation, which is applied in a targeted manner in psychological torture. Doctors have been able to physically measure the neurological and cognitive consequences. Even though the exact course can never be precisely predicted, everything can develop very quickly from this point on. In any case, it was clear that Assange's state of health would very rapidly and drastically deteriorate if these conditions remained unchanged.

WSWS: And this is what happened.

Melzer: Yes. Only a few days after my visit, Assange had to be transferred to the medical wing of the prison and his condition had to be stabilized with medication. However, the causes of his symptoms, the unrelenting arbitrariness, isolation and surveillance, were not changed at all. On the contrary, they were even worsened.

Before that, he had had access to other prisoners. He was able to move freely for at least a few hours a day and could talk to them. Now he is isolated. Now he has no contact with other inmates, and the treatment he receives from the authorities is marked by arbitrariness and prejudice. Apart from the visits he gets from outside, he lives in an absolutely hostile world.

Of course, the argument about his health is now being abused to say that he must be constantly monitored so that nothing can happen to him. Another argument is: we must protect him from the other prisoners and therefore we must make sure that he has no contact.

This is a Catch-22. I am convinced that this is being done quite deliberately, and my suspicion is being reinforced because I can see how the British government is reacting to my letters. Everything is being rejected out of hand and they refuse to enter into a dialogue with me.

WSWS: What is the reason for this?

Melzer: I suppose if you cannot answer the questions, it is more convenient to stall the dialogue in the first place. States that have a justification for their behaviour usually very much like to present it. The behaviour that Sweden and England are now exhibiting, on the other hand, is typical of states that are very aware of the illegality of their behaviour. They avoid any dialogue for precisely this reason.

I have received information from various reliable sources indicating that his health has deteriorated dramatically in the meantime. That was also seen in court. Today we are at a point where he could collapse at any moment.

Maybe he can hold out for another year, maybe even two. But he might also be finished tomorrow. That was the reason for me to sound the alarm again.

I also saw that the British government had no intention whatsoever to enter into a dialogue with me or take my recommendations seriously. Assange has remained imprisoned after completing his prison sentence, and in a maximum security prison at that, which, in my view, is completely out of proportion.

WSWS: You described the Assange case during the unveiling of the sculptures in front of the Brandenburg Gate as the “most important test case of our time.” Can you elaborate on that? What exactly do you mean by that?

Melzer: The Western democracies, which call themselves mature democracies, have become very self-righteous. Especially since the fall of the Berlin Wall—we are sitting here in Berlin—and the end of the Cold War, they believe that their political and economic system has won and is therefore incontestably the correct and the best one.

In reality, however, we have become fair-weather democracies, whose state institutions cease to function in critical situations because they no longer monitor each other. It is, however, absolutely crucial for the protection of the rule of law that the judiciary and parliament monitor the government and intervene in cases of abuse of power. They have to hold politicians and authorities accountable. This no longer works today, especially where the fundamental interests of the economic and political establishment are at stake.

WSWS: And the media...

Melzer: In theory, the media are the fourth power in the state, which is supposed to observe from the outside to what extent the separation of powers is, in fact, working, and whether they should ring the alarm. But

the mainstream media no longer do this because they themselves have become part of the establishment. They profit from it, they are dependent on it.

The same applies to many of the major human rights organisations. At least to some extent, one gets the impression that they have also become part of the establishment. They are supported by large donations and are dependent on the state. They are, therefore, not prepared to risk a lot and take uncomfortable positions that could, above all, cost money.

In this context, where there is no longer any monitoring of the powers of the state, neither through political institutions nor through the media, an organization like WikiLeaks emerges that tries to assume these functions. This is as logical as it is essential for the functioning of democracy, the rule of law and state policy.

Certain practices of WikiLeaks may well have been questionable. The internet is an area that is difficult to regulate and which, apart from freedom of information, entails major risks that must be dealt with appropriately. But the fundamental function that WikiLeaks has assumed, namely the detection of abuse of power and corruption, is indispensable for state policy.

How we deal with this question is a test case for state policy. How do we deal with the fact that our governments are suddenly to be subject to supervision again? No longer by the institutions originally created for this purpose, but by the public.

At the moment, we are seeing how those who have unchecked power are resisting with all the means at their disposal having to submit once again to supervision and control. The various states are persecuting Assange to set an example. They want to show what happens to you when you call their power into question. That's what this is all about.

I would like to clearly remind you that, notwithstanding the revelations [by WikiLeaks], not a single criminal case has been brought against those who committed the crimes that were revealed. That in itself is proof of the lack of good faith on the part of these states. Even war crimes are no longer punished, but all those who bring such crimes to light are persecuted and destroyed.

I would like to give an example that illustrates how far the West has fallen behind today. A few months ago, two journalists were pardoned in Myanmar. They had been sentenced to several years in prison for exposing a massacre of civilians by the armed forces of Myanmar. At the same time, the soldiers involved in the massacre were pardoned. However, Myanmar had previously sentenced these soldiers to 10 years in prison and imprisoned them until they were pardoned.

Even Myanmar is miles ahead of the West in this regard. Neither the Americans nor the British have yet done that. On the contrary, both governments refuse to legally prosecute the involvement of their own agents and soldiers in the torture and extraordinary rendition program of the CIA.

WSWS: Another example is the case of the German colonel Georg Klein, who ordered the air strike on Kunduz in Afghanistan 10 years ago, which killed over 90 civilians. In the end he was promoted.

Melzer: Yes, I was on the ground in Afghanistan at the time and also personally commented on the case later. It may well be that the evidence was not sufficient for legal prosecution. But the question of the criminal guilt of an individual is only one aspect of such a case. Beyond that, there is also the question of state responsibility.

The state is responsible for any violation of international law, irrespective of the criminal liability of the individuals involved. First of all, it should have been clarified whether the attack occurred in violation of international law. If so, then the state is liable to pay compensation.

The consideration of potential criminal proceedings against the individuals responsible is only the second step. However, to the best of my knowledge, the first step was simply omitted in this case. I cannot judge what the evidence from the standpoint of criminal law actually

looked like. However, from the standpoint of the international laws of war this was certainly a problematic case that should have been investigated.

What is at stake here is state responsibility. The term "taking responsibility" contains the word "response." States must be required to respond to questions from the public about the exercise of state power. What criteria have been applied? Who did what on whose orders?

If states no longer give the answers, if we get only blacked-out texts, then we no longer have transparency, but censorship. And with censorship inevitably comes tyranny. That comes as surely as day follows night, because uncontrolled power corrupts. And that is also the essence of the Assange case. Therefore, this is a test case for the system. If we do not pass this test case, then we have opened the doors wide for tyranny.

WSWS: We are witnessing in all countries, and especially in Europe, a trend towards militarism, war and dictatorship. You are warning of a return of tyranny. How do you think the campaign to defend Assange must continue in this situation?

Melzer: Well, I will certainly continue to focus on asking questions that the states must answer. My mandate requires that I report publicly on what I see, that I ask questions where questions arise, and that I call on states to enter into a dialogue and to explain themselves.

It is then up to the public, civil society, human rights organisations and the media to form their own opinion and draw the political conclusions. I provide the states with a mirror, and the broader public with information and material that can be used by a variety of actors—the media or other social and political organizations—to hold governments accountable.

And that's exactly what WikiLeaks is all about. It's about holding the authorities accountable. They have to answer questions. That is the essence of democracy and the rule of law.

Power comes from the people and is for the people. And if the government gives us only blackened answers, it means that it no longer wants to answer to us. But then it is also no longer responsible but has become irresponsible.

That is what this is about, and not whether Assange might be narcissistic, whether he was skateboarding in the Ecuadorian embassy, or how he treated his cat there. This is completely irrelevant both legally and politically. It is a question of whether our states and institutions have integrity. That, on the other hand, is very relevant, for each and every person. Because once unchecked power is established at the highest level, it trickles through all the institutions and corrupts the whole system.

We simply have to be aware that what we have achieved over the last 200 years cannot be taken for granted. We are about to slide back into the 18th century. Today, of course, this manifests itself in a different form. There are no longer crowned people on horses with soldiers riding ahead. Today they sit in large hotel towers, accumulating grotesque fortunes in the tens of billions, while their employees often cannot live on their wages and are dependent on social welfare. And these people rule us.

It is true that we elect our representatives in parliament, but these representatives do not carry out the will of the people, but the will of the lobbies. And the lobbies are controlled by those who control the economic resources, that is, by a tiny minority of the world's population who have little to do with sustainability, justice and the general interest. We have to finally become aware of how the system really works and the danger it poses—for our future, our human dignity and our human rights.

WSWS: There is a growing response to the campaign to defend Assange. How do you perceive this development? In May, when you started your work, you were still—and I don't know to what extent you felt that yourself—much more isolated and under a lot of pressure.

Melzer: That's true. Let me put it this way, I was standing somewhat alone. But since then something has indeed changed. It's like having to change the direction of an aircraft carrier or an ocean liner. You have to exert pressure and be patient for quite a long time. But the law of action and reaction applies here as well. The energy you invest is never lost, but

always has an effect. Because energy, as we know, cannot be destroyed. And I think you're beginning to see that in the Assange case.

Quite a lot has moved since he was arrested. Not only because of my own activities. Large parts of the grotesque narrative that had been constructed about Assange have collapsed since then as well.

For example, during Assange's stay at the Ecuadorian embassy it was often claimed that his fear of being extradited to the US was nothing but paranoia, because the US hadn't applied for extradition at all. Well, within an hour after Assange's arrest by the British, the US issued its extradition request and thus provided the proof to the contrary.

Or the idea that Assange should have turned himself in to the Swedish courts, where he would have allegedly been tried under the rule of law. Well, this so-called procedure within the framework of the rule of law in Sweden collapsed after nine and a half years. This happened, among other things, after the Swedish government was unable to answer my officially issued questions concerning 50 procedural irregularities, some of them serious, in the case against Assange. This rendered the whole investigation completely incredible.

Then, on April 11, 2019, Assange was not only stripped of asylum by Ecuador, but also of his citizenship, without any legal proceedings! This is unbelievable. And anyone who looked into this just a little bit could clearly see that Assange's rights were systematically violated by Britain in recent months.

If a defendant is deprived of the opportunity to prepare his defence, then we are no longer speaking about the rule of law. That is quite obvious. Whether someone is guilty or not, he has the right to prepare his defence.

Moreover, there is the dramatic deterioration of his state of health since his arrest by the British, even after his admission to the medical wing. It is gradually becoming very difficult to overlook the abuse. At some point there comes the critical juncture when public opinion begins to turn.

WSWS: It is interesting that this development coincides with growing protests and strikes all over the world in recent months.

Melzer: Absolutely. The whole thing is an enormous trend. We have the yellow vests. We have more and more such movements in Latin America, where the governments come under pressure because it slowly becomes obvious that they are no longer there for the people. And I simply warn about it. I don't think we can afford a collapse of our complex and modern society.

That would be dreadful. It is high time that we take steps to redress this imbalance, but above all—and this is where I see my function—to first insist that the exercise of state power be consistently monitored. Transparency is the fundamental requirement. We are not governed by bad people; we are governed by a bad system. Whoever we put up there is in great danger of being corrupted over time because the system no longer checks itself. Human nature is not suited for the exercise of uncontrolled power.



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